

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CAPITOL RECORDS, INC., a Delaware corporation,

Plaintiff,

- v -

CITY HALL RECORDS, INC., a California corporation and
ROBIN COHN,

Defendants.

ECF Case
07-cv-6488 (LTS) (KNF)

**DECLARATION OF JURA ZIBAS IN SUPPORT OF DEFENDANTS' MOTION FOR
PARTIAL SUMMARY JUDGMENT RE: RELIEF/DAMAGES LIMITATION**

I, JURA C. ZIBAS, ESQ., declare as follows:

1. I am a citizen of the United States and an attorney at law admitted to practice in New York State. I am counsel to Defendants City Hall Records, Inc. (“City Hall”) and Robin Cohn (collectively, “Defendants”).

2. I submit this declaration in support of Defendants' motion for partial summary judgment re: relief/damage limitation dated August 22, 2008. I have personal knowledge of the facts set forth in this declaration and if called upon to testify, I could and would testify competently thereto.

3. Plaintiff has advised that: (1) Plaintiff's common law claims are not limited to sales in New York; (2) financial injury has occurred in New York based on nationwide sales because Plaintiff is located here; (3) Plaintiff's common law claims are associated with Defendants' conduct nationwide; (4) Plaintiff is seeking a damage award that accounts for harm caused nationwide, and (5) Plaintiff is seeking damages assessed under New York law for torts committed nationwide.

Moreover, in the process of discovery, Plaintiff sought information regarding sales of the albums at issue occurring outside of New York and indicated it was pursuing multi-jurisdictional relief/damages for its common law claims.

4. By letters dated May 12, 2008 and July 3, 2008 to Matt Oppenheim we advised Plaintiff that damages should be limited to the New York market and that Plaintiff is not entitled to multi-jurisdictional relief/damages. Plaintiff has refused to withdraw its claims to the extent they seek multi-jurisdictional relief/damages.

5. By letter dated July 23, 2008 to Magistrate Judge Fox we again brought up the issue that damages should be limited to New York. Defendants continue to assert that Plaintiff is not entitled to multi-jurisdictional relief/damages on the common law claims. Despite the parties' best efforts, no resolution has been reached with respect to the issue of multi-jurisdictional relief/damages.

6. Attached hereto as Exhibit A is a true and correct copy of the Amended Complaint filed by Plaintiff on February 15, 2008.

7. Attached hereto as Exhibit B is a true and correct copy of Interrogatory No. 1 of *Plaintiff Capitol Record Inc.'s First Set of Interrogatories to City Hall Records, Inc.* and *Plaintiff Capitol Record Inc.'s Second Set of Interrogatories to City Hall Records, Inc.*

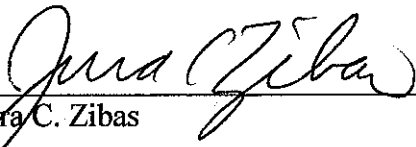
8. Attached hereto as Exhibit C is a true and correct copy of Interrogatory No. 3 of *Plaintiff Capitol Record Inc.'s First Set of Interrogatories to City Hall Records, Inc.* and *Plaintiff Capitol Record Inc.'s Second Set of Interrogatories to City Hall Records, Inc.*

9. Attached hereto as Exhibit D is a true and correct copy of letters dated May 12, 2008 and July 3, 2008 from Jura Zibas.

10. Attached hereto as Exhibit E is a true and correct copy of the letter dated July 23, 2008 to Magistrate Judge Fox.

I hereby declare under penalty of perjury pursuant to the laws of the United States of America that the foregoing is true and correct.

Executed on this 22nd day of August 2008.



Jura C. Zibas

Exhibit “A”